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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,855	02/10/2004	Zafar Ali	112025-0540	1073
24267 7590 01/24/2008 CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER SAM, PHIRIN	
			ART UNIT 2619	PAPER NUMBER
			MAIL DATE 01/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/775,855

Applicant(s)

ALI ET AL.

Examiner

Phirin Sam

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-45 is/are allowed.
- 6) ☒ Claim(s) 1-7, 17-23, 31, 32, 35, 36 and 39 is/are rejected.
- 7) ☒ Claim(s) 8-16, 24-30, 33, 34, 37 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
PHIRIN SAM  
PRIMARY EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7, 17-20, 23, 31, 32, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 7,054,304 (hereinafter referred as “Wang”).

**Regarding claims 1-4 and 7,** Wang discloses in a computer network comprising a plurality of intermediate nodes, a method for gracefully shutting down a resource contained in an intermediate node, the method comprising the steps of:

- (a) advertising to other intermediate nodes in the network that a resource is being gracefully shut down (see Figs. 1, 2b, and 13, abstract, col. 1, lines 7-15, col. 4, lines 34-51, col. 5, lines 20-24, and col. 6, lines 15-43);
- (b) determining if a condition that warrants shutting down the resource is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49);
- (c) if the condition is met, shutting down the resource (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49).

**Regarding claims 17-20 and 23,** Wang discloses an intermediate node contained in a data network comprising a plurality of intermediate nodes, the intermediate node comprising:

- (a) a resource (see Fig. 1);
- (b) a processor configured to:
  - (b1) advertise to other intermediate nodes in the network that the resource is being gracefully shut down (see Figs. 1, 2b, and 13, abstract, col. 1, lines 7-15, col. 4, lines 34-51, col. 5, lines 20-24, and col. 6, lines 15-43);
  - (b2) determine if a condition that warrants shutting down the resource is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49);
  - (b3) if the condition is met, shutting down the resource (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49).

**Regarding claim 31,** Wang discloses an intermediate node contained in a data network comprising a plurality of intermediate nodes, the intermediate node comprising:

- (a) a resource (see Fig. 1);
- (b) means for advertising the resource is being gracefully shut down to other intermediate nodes in the network (see Figs. 1, 2b, and 13, abstract, col. 1, lines 7-15, col. 4, lines 34-51, col. 5, lines 20-24, and col. 6, lines 15-43);
- (c) means for determining if a condition warranting the graceful shutdown of the resource is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49);
- (d) means for shutting down the resource if the condition is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49).

**Regarding claim 32,** Wang discloses a computer readable medium comprising, computer executable instructions for execution in a processor for:

- (a) advertising a resource contained in an intermediate node is being gracefully shut down to other intermediate nodes in a network (see Figs. 1, 2b, and 13, abstract, col. 1, lines 7-15, col. 4, lines 34-51, col. 5, lines 20-24, and col. 6, lines 15-43);
- (b) determining if a condition that warrants shutting down the resource is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49);
- (c) if the condition is met, shutting down the resource (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49).

**Regarding claim 35**, Wang discloses in a computer network comprising a plurality of intermediate nodes, a method for gracefully shutting down a resource contained in an intermediate node wherein the resource is associated with one or more connections, the method comprising the steps of:

- (a) notifying a head-end node of each connection associated with the resource that the resource is being gracefully shut down (see Figs. 1, 2b, and 13, abstract, col. 1, lines 7-15, col. 4, lines 34-51, col. 5, lines 20-24, and col. 6, lines 15-43);
- (b) determining if a condition associated with the graceful shutdown of the resource is met (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49);
- (c) if the condition is met, shutting down the resource (see Figs. 1, 2b, and 13, col. 19, lines 45-62, and col. 20, lines 30-49).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5, 6, 21, 22, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,054,304 (hereinafter referred as "Wang") in view of US Patent H1964 (hereinafter referred as "Hoffpaur").

**Regarding claims 5, 6, 21, 22, 36, and 39,** Wang does not disclose entering one or more commands and monitoring the resource to determine if the resource should be gracefully shutdown. However, Hoffpaur discloses monitoring the resource to determine if the resource should be gracefully shutdown (see Fig. 3, col. 6, lines 54-67, col. 7, lines 1-36, and col. 23, lines 12-28). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine command(s) and monitoring the resource teaching by Hoffpaur with Wang. The motivation for doing so would have been to provide to manage a particular resource or type of resource, as opposed to an entire array of resources read on column 2, lines 58-60. Therefore, it would have been obvious to combine Hoffpaur and Wang to obtain the invention as specified in the claims 5, 6, 21, 22, 36, and 39.

***Allowable Subject Matter***

6. Claims 8-16, 24-30, 33, 34, 37, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

**Regarding claims 40-45**, the prior arts do not disclose gracefully shutting down the one or more connectionless protocols; and determining if a second condition associated with the shutting down the connectionless protocols is met.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Increased Flexitime Policy (IFP) Program.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272 - 2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Phirin', written over a horizontal line.

Date: January 21, 2008

**PHIRIN SAM  
PRIMARY EXAMINER**